

STATE OF OREGON respectfully submits the follow comments:

State Safety Oversight Agency's role during all construction phases. FTA should include and clarify this provision in the NPRM, to include all aspects from planning, to design, to and including construction, add under Section 659.13 on program standards. SSOA should have the option to be involved, without invitation, in the pre-revenue planning and construction phases.

#### Hours of service

FTA should include a required maximum number of hours that safety sensitive employees can work, and a minimum number of hours of time off. All other transportation modes are under federal hours-of-service regulations. This would probably fit into 659.13 under elements of the SSO program standard. FTA must at a minimum require the SSOA to impose state regulations for hours-of-service.

Transit agency specific penalties for non compliance is essential to SSOA leverage.

See 659.7 and 659.37 Current penalties for non compliance are outdated and ineffective. It is too general as it stands now and therefore weak in its ability to push compliance.

Should be pointed and specific to the offending transit agency or system because it would not be fair for all transit systems in the state to suffer from the non-compliance of one. It is inadequate leverage for state oversight, already a federally non-funded but mandated program, to get compliance. FTA should at least require the SSOA impose further penalties, under state statute, as may be warranted.

Security plan directives should mention other possible controlled documents. See 659.17

There may be other documents, for example situational emergency plans, whose circulation should be equally controlled.

#### On-site review of security plans

Do NOT require on-site review only for security plan. This is too much of a burden on SSO, a non-funded federal mandate. FTA should require on-site review ONLY if alternate but equally confidential and controlled process does not exist to review these plans. Note that DHS regulation now already exists to hold security plan from nondisclosure. Note also that new restrictive state laws exist as well with processes that may conflict with this new FTA mandate. In rule making, legislating specific METHOD instead of underlying PROCESS has never been a good idea because methods can always change with time as new and better ways to do things are discovered. Thus it would need another new NPRM to change the method if need be, while the process and goals remain the same.

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Security plan elements should reflect safety plan elements and shared outcomes See 659.17 Examples are coordinating drills, training and emergency management plans that apply equally to both the safety and security of the transit rail system.

Require SSOA to be sufficiently insulated and elevated to meet federal mandates  
See 659.9, unless mandated, an SSOA could be set up with no more than a token program because it would not be sufficiently insulated and elevated to fulfill its mandates.

Also, FTA should create conflict of interest provisions to cover possible undue political or contractual influence from Transit Agency in order to reduce or side-step requirements when it comes to the safety and security of the public.

Security breaches and other security issues should be covered similarly to safety

See 659.17, An example is threat and vulnerability assessments (TVA) for guiding both pre-revenue and construction activities, as well as revenue operations. Security Breach needs to be defined and included in notification requirements to SSOA.

Authorize SSOA to mandate funding for its mission

See 659.9, FTA needs to address a funding source to assist states with this unfunded mandate. See also page 9 of 31 in NPRM, last but 2 paragraph.

This is a non-funded mandate and so the states need all the help they can to find funding in order to fulfill its SSO mandate.

Reportable accident threshold for transported injuries should be ONE, not two injuries. See 659.27 (a) (2). SSOA's need to be notified, even if only one person was injured.

FTA required 3-year safety and security review

FTA should allow states to conduct more frequent reviews as necessary.

659.13(6) Change the requirement to read "at least every three years."

Transit Agency General Manager must sign off on Internal Audits

659.21 FTA rule should require the Transit Agency General Manager to sign off on all conducted internal safety and security audits to ensure management is aware of internal operations and processes and that they are working.